

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

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UNITED STATES OF AMERICA,  
and the STATE OF TEXAS, *ex rel.*  
MICHAEL REHFELDT and  
LANDRIS JOHNSON,

Plaintiffs,

v.

HEART TO HEART OF TEXAS, LLC, dba  
HEART TO HEART HOSPICE,

Defendant.

§  
§ 14-CV-1688-H  
§ Judge Vanessa Gilmore  
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§ FILED *EX PARTE*  
§ AND UNDER SEAL  
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§ Jury Demanded  
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**GOVERNMENT'S JOINT NOTICE OF ELECTION TO DECLINE  
INTERVENTION**

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B) and the Texas Medicaid Fraud Prevention Act, Tex. Hum. Res. Code § 36.104(a)(2), the United States and the State of Texas (Texas) notify the Court of their decision not to intervene in this action.

Although the United States and Texas decline to intervene, they respectfully refer the Court to 31 U.S.C. § 3730(b)(1) and Tex. Hum. Res. Code §§ 36.102(e), .104(b), which allow the relators to maintain the action in the name of the United

States and Texas; providing, however, that the “action may be dismissed only if the court and the United States Attorney General and the Texas Attorney General give written consent to the dismissal.” *Id.* Therefore, the United States and Texas request that, should either the relators or defendant propose that this action be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of both the United States and Texas before ruling or granting its approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3) and Tex. Hum. Res. Code § 36.104(b-1), the United States and Texas request that all pleadings filed in this action be served upon them; the United States and Texas also request that orders issued by the Court be sent to their respective counsel. The United States and Texas reserve their right to order any deposition transcripts, to intervene in this action, for good cause at a later date, and to seek the dismissal of the relators’ action or claims. The United States and Texas also request that each be served with all notices of appeal.

Finally, the United States and Texas request that the relators’ first amended complaint, this notice, and the attached proposed order be unsealed. The United States and Texas request that all other papers on file in this action remain under seal, because in discussing the content and extent of its investigation, the United States and Texas provide such papers by law to the Court alone for the sole

purpose of evaluating whether the seal and time for making an election to intervene should be extended.

A proposed order accompanies this notice.

Respectfully submitted,

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ACTING UNITED STATES ATTORNEY

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Government's Joint Notice of Election to Decline Intervention and accompanying Order were served by e-mail, on November 12, 2021, to:

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